



## December 2004 Edition

### Acquisition Update

During the month of November and early December Operational Capability Assessments (OCAs) were conducted with each Potential Service Provider (PSP). The evaluation process is on schedule for a performance decision between January 1 and March 17, 2005. The Office of Competitive Sourcing understands that Automated Flight Service Station (AFSS) employees are anxious about when this is going to happen. Efforts to set a date are ongoing. We would rather get it right than inadvertently mislead you by estimating a date prematurely. By the beginning of January, the Office of Competitive Sourcing should be able to narrow the timeframe for award. At that time, specifics about the process surrounding the award announcement will be shared with the AFSS community.

A Joint Resources Council (JRC) was held on December 8, 2004. The JRC allows Federal Aviation Administration (FAA) senior executives the opportunity to confer on agency mission needs and investments in acquisition programs. Information provided during the JRC meeting is intended to allow for an informed decision by the council members. After hearing the briefing and deliberating on the information provided, the JRC authorized the Agency to make an award for the AFSS public-private competition.

### Omnibus Bill (H.R. 4818) Signed

The omnibus appropriations bill was signed by President Bush on December 8, 2004. The bill contains the fiscal year (FY) 2005 appropriations for several Federal departments and agencies, including the Department of Transportation (DOT)/FAA.

### Recently Asked Questions

*There were hopes that Congress might write something into the appropriations bill that would stop or delay the AFSS A-76 competition. What became of the Van Hollen/Mikulski amendment to the DOT/FAA appropriations bill?*

The appropriations bill did not contain any provision that will affect the AFSS competition.

*Does the language in the Screening Information Request (SIR) mean that under Right of First Refusal (ROFR), employee job offers for ATCS are guaranteed to pay GS-12 Step 5?*

The Service Contract Act (SCA) issued by the Department of Labor (DOL) establishes the minimum wage rate. However, the Office of Competitive Sourcing realized that these rates were lower than what the majority of affected employees were currently being paid. Page one of the October edition of *The Briefer* detailed the actions taken by the agency to have DOL review the wage determination. The language included in the SIR is as follows:

Section M.3.5.1 of the SIR states, "A PSP may propose any labor mix and associated labor rates that it deems to be appropriate for the scope of work to be performed. The Government will assess the realism of the proposed labor mix and rates using the incumbent wage rate for a Full Performance Level (FPL) 2152 AFSS Specialist, which is equivalent to a General Schedule (GS) 12 Step 5 plus GS locality pay, and not the current Department of Labor (DOL) approved Service Contract Act (SCA) rates. PSPs shall include a strategy in their Staffing Plan that addresses any risks, including employee recruiting and retention, associated with their proposed labor mix and rates."

***If the MEO is the eventual winner of the AFSS competition, will political or other influences be allowed to alter the existing MEO package to protect politicians' turf? Does the MEO become an untouchable contract that is not subject to political or other influences? If the MEO proposal can be modified or adjusted, does this change the MEO package itself and thereby nullify the entire MEO package?***

The MEO is implemented via a Letter of Obligation (LOO). The terms of the LOO are similar to the terms of a contract; and in fact the MEO is "binding" itself to the cost and performance baselines of the LOO. Like a contract, the terms of the LOO can be modified; by mutual consent or by unilateral change. The agency would have to answer to the Office of Management and Budget and Congress if the cost and performance baselines in the LOO were not met. In fact, failure to maintain a performance or cost baseline could result in a cancellation of the LOO, forcing a number of potential actions on the part of the agency.

***Will there be money in the 2005 budget to cover the LOO? Now that the budget bill has been signed, is there money available to cover the LOO?***

Sufficient funding has been identified in FY 2005 to proceed with performance award. In future years, funding for the program will come from funds previously identified to support AFSS programs.

***We've heard rumors that reports generated from the OCAs have been shared with some individuals and/or offices. Will AFSS field personnel receive a copy of these reports?***

The information generated from the OCAs has not been shared with anyone outside of the evaluation process and will not be shared in the future. This information is both procurement sensitive and proprietary in nature.

***If a vendor wins, will employees still be required to maintain a medical certificate?***

Yes. Operational employees will be required to meet the current medical requirements as outlined in the SIR, Section C.4.2.2.3 - Employee Health Requirements, which states, "Operational personnel shall adhere to all medical requirements and responsibilities IAW 3930.3 - Air Traffic Control Specialist Health Program."

***IF the MEO wins, will AFSS controllers remain in the 2152 job series?***

This information would be a part of the MEO proposal and is not releasable at this time.

***Do AFSS employees have to possess medical and currency requirements on the date that they are offered the opportunity for ROFR? This would impact persons who may be temporarily medically disqualified, detailed away from facilities for more than 30 days, etc.***

ROFR is addressed in Section I of the solicitation. Section I.4 states: "AMS 3.2.1.3-2 Right of First Refusal of Employment (September, 2003)

(a) The SP shall give Government employees who have been or will be adversely affected or separated as a result of award of this contract the right of first refusal for employment openings under the contract in positions for which they are qualified, if that employment is consistent with post-Government employment conflict of interest standards.

(b) Within 10 days after contract award, the CO (Contracting Officer) will provide to the SP a list of all Government employees who have been or will be adversely affected or separated as a result of award of this contract.

(c) The SP shall report to the CO the names of individuals identified on the list who are hired within 90 days after contract performance begins. This report shall be forwarded within 120 days after contract performance begins. "

The Human Resource Advisor (HRA) provides the list referred to in paragraph (b) and has advised that the eligibility for ROFR is governed by one criterion--being an adversely affected employee. Whether an individual on the list qualifies for a particular position will be determined by the SP in accordance with the requirements outlined in the solicitation.

## Happy Holidays

The Office of Competitive Sourcing wishes all AFSS employees and their families a happy and safe holiday season.

